Regulation IV.18(a). Special Rules.

- (1) **In General.** Article IV. 18 provides that, if the allocation and apportionment provisions of Article IV do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the executive director may require, in respect to all or any of the taxpayer's business activity, if reasonable:
 - (A) separate accounting;
 - (B) the exclusion of any one or more of the factors;
- (C) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or
- (D) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.
- (2) Art.IV.18. permits a departure from the allocation and apportionment provisions of Article IV only in limited and specific cases. Article IV.18. may be invoked only in specific cases where unusual fact situations (which ordinarily will be unique and nonrecurring) produce incongruous results under the apportionment and allocation provisions contained in Article IV.
- (3) In the case of certain industries, the foregoing regulations in respect to the apportionment formula do not set forth appropriate procedures for determining the apportionment factors. Nothing in Article IV.18. or in this Regulation IV.18. shall preclude the executive director from establishing appropriate procedures under Article IV.10. through 17. for determining the apportionment factors for each such industry, but such procedures shall be applied uniformly.

Regulation IV.18.(b). Special Rules: Property Factor. The following special rules are established in respect to the property factor of the apportionment formula:

- (1) If the subrents taken into account in determining the net annual rental rate under Regulation IV.11.(b) produce a negative or clearly inaccurate value for any items of property, another method which will properly reflect the value of rented property may be required by the executive director or requested by the taxpayer. In no case however shall such value be less than an amount which bears the same ratio to the annual rental rate paid by the taxpayer for such property as the fair market value of that portion of the property used by the taxpayer bears to the total fair market value of the rented property.
- (2) If property owned by others is used by the taxpayer at no charge or rented by the taxpayer for a nominal rate, the net annual rate for such property shall be determined on the basis of a reasonable market rental rate for such property.

Regulation IV.18.(c). Special Rules: Sales Factor. The following special rules are established in respect to the sales factor of the apportionment formula:

- (1) Where substantial amounts of gross receipts arise from an incidental or occasional sale of a fixed asset used in the regular course of the taxpayer's trade or business, such gross receipts shall be excluded from the sales factor.
- (2) Insubstantial amounts of gross receipts arising from incidental or occasional transactions or activities may be excluded from the sales factor unless such exclusion would materially affect the amount of income apportioned to this state.
- (3) Where business income from intangible property cannot readily be attributed to any particular income-producing activity of the taxpayer, such income cannot be assigned to the numerator of the sales factor for any state and shall be excluded from the denominator of the sales factor.
- (4) Where the income-producing activity in respect to business income from intangible personal property can be readily identified, such income is included in the denominator of the sales factor and, if the income-producing activity occurs in this state, in the numerator of the sales factor as well.